

**Ollscoil na hÉireann, Gallimh**  
**National University of Ireland, Galway**

**SEMESTER 1 Examinations, 2003/2004**

<b>Exam Code(s)</b>	2BA1, 1OA, 1EM
<b>Exams(s)</b>	2 <sup>nd</sup> Bachelor of Arts Erasmus & Occassional
<b>Module Codes(s)</b>	LW203
<b>Module(s)</b>	Tort
<b>Paper No.</b>	1
<b>External Examiner(s)</b>	Mr. Eoin Quill
<b>Internal Examiner(s)</b>	Ms. Mary Keys
<b><u>Instructions</u></b>	Please answer <b><u>THREE</u></b> questions. All questions carry equal marks.
<b>Duration</b>	<b><u>TWO</u></b> Hours
<b>No. of AnswerBooks</b>	
<b><u>Requirements:</u></b>	
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	
<b>Department(s)</b>	Law

PTO

1. Jim was driving his car to chair an important meeting for which he was late, when the car suddenly veered across the road and into the side of Kate's car. Kate, who was on her way to the Knock airport for a three week holiday in the Bahamas, missed her flight and had to cancel her holiday. She suffers from a severe recurrence of a back-injury which she has occasionally suffered from since a workplace accident a year ago. She wants to recover from Jim for her back injury and for the cost of her holiday. An examination of the car found that the steering was faulty. Jim is raging as the day before he had collected the car from the local garage where they had assured him that the car was in perfect condition. Please advise Jim as to any liability with reference to the principles of causation and remoteness.
2. Critically analyse the doctrine of *res ipsa loquitur* in Irish tort law
3. Charlie was working in a chocolate factory where his job was to ensure that the cocoa beans reaching the grinding machine were of a high standard. The grinding machine stopped frequently and Charlie had to restart it on a number of occasions while waiting for the new starter to be installed. One this occasion when he restarted it he heard a loud moan from inside the machine and realised that, unknown to him, the engineer had come to do the repairs. He collapsed on the spot as he thought he had killed the engineer who was in fact not seriously injured. Charlie is unable to return to work; he is having nightmares and flashbacks and has become withdrawn and depressed. Advise Charlie as to any course of action open to him.
4. *"The tort of Trespass involves direct injury to the Plaintiff as well as intention to bring about some sort of physical or mental effect upon another person"*  
Consider this statement in relation to Assault and Battery, and the defences that might apply. Include relevant case law in your answer.
5. Ziggy visits Dr. Fawsitt to make arrangements to have an operation which he has already deferred a number of times due to nervousness. Dr. Fawsitt has decided that he will not tell Ziggy of a risk in the order of .5% that he might end up with chronic long-term pain as a result of the operation because most of Dr. Fawsitt's colleagues did not regard this as significant enough to form part of the information given to the patient. In addition, Dr. Fawsitt judged that Ziggy's nervous disposition might prevent him from going ahead with the operation. Ziggy consents to the operation and now suffers from chronic pain and discomfort and he says he would not have gone ahead with the operation had he known of such risk. Advise Ziggy on any course of action open to him.
6. Under the Occupier's Liability Act, 1995, people who come onto another person's premises are divided into three categories:
  1. Visitors
  2. Trespassers
  3. Recreational usersDiscuss the duty owed by the occupier to each of these categories.

END